

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-333

September 10, 1998

LIGHTSHIP TELECOM, LLC  
Petition for Finding of Public  
Convenience and Necessity to  
Provide Service as a Local  
Exchange Telephone Utility

ORDER GRANTING AUTHORITY  
TO PROVIDE LOCAL SERVICE

WELCH, Chairman; NUGENT, Commissioner

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In this Order, the Commission grants Lightship Telecom, LLC (Lightship) the authority to provide competitive local exchange service in all areas within the State of Maine that are within the service area of New England Telephone and Telegraph Company d/b/a/ Bell Atlantic - Maine. We also exempt lightship from the requirements of Chapter 210, *Uniform System of Accounts*, and of 35-A M.R.S.A. §§ 707 and 708, subject to the conditions described below.

**I. APPROVAL OF APPLICATION TO SERVE**

On April 30, 1998, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, Business Communications Network Corp. d/b/a Lightship Telecom filed a petition with the Commission requesting authority to provide local telephone service in Maine. On August 6, 1998, Business Communication Network filed an amended petition stating that the applicant entity was now Lightship Telecom, LLC.

35-A M.R.S.A. § 2105 requires us to find that the public convenience and necessity require another utility to serve where another utility is already authorized or is providing the same or similar service, before we grant approval under section 2102 for an additional public utility to provide service.

47 U.S.C. § 253(a), enacted by the Telecommunications Act of 1996, states:

(a) In General. No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service.

47 U.S.C. § 253(b) states, however:

(b) State Regulatory Authority. Nothing in this section shall affect the ability of a

State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

We find that granting the authority to provide local exchange service will not impede the preservation or advancement of the public interest goals or policies stated in section 253(b).

Lightship's application provides reasonable information indicating that its financial and management capabilities are adequate to provide local services in Maine.

## **II. NEED TO FILE TERMS AND CONDITIONS AND RATE SCHEDULES**

In order to provide actual service, a utility not only must have authority to provide service but must have on file with the Commission a schedule of rates, terms and conditions for the services it will provide. Lightship has not filed any rate schedules for local exchange service at this time. 35-A M.R.S.A. § 304 requires that a utility must file rate schedules and terms and conditions prior to providing a service. The terms and conditions shall specify the areas in which lightship will actually provide originating and terminating local exchange service, and may do so by reference to incumbent local exchange carrier (ILEC) exchanges rather than by municipalities.

## **III. NEED TO OBTAIN INTERCONNECTION AGREEMENT(S)**

In order to provide local exchange service, a competitive local exchange carrier must, as a practical matter, obtain an interconnection agreement with the ILEC(s) providing service in any area where it intends to provide service. In the absence of such an agreement, it will not be possible for lightship's customers to call customers of the ILEC(s), and vice versa. Interconnection agreements are governed by 47 U.S.C. § 252, and must be approved by this Commission.

If a competitive local exchange carrier (CLEC) makes a bona fide request for an interconnection agreement with an ILEC that is a "rural telephone company" as defined in 47 U.S.C. § 153(37), the "rural exemption" of 47 U.S.C. § 251(f) will apply. All of Maine's independent telephone companies are "rural telephone companies." A rural telephone company is not required to negotiate an interconnection agreement or provide interconnection until after the Commission, pursuant to 47 U.S.C. § 251(f)(1)(B), finds that the requirement "is not unduly economically burdensome, is technically feasible, and is consistent with [the universal service

provisions of] section 254 . . . ." Lightship has requested and is granted authority only to provide service in areas served by Bell Atlantic, which is not a rural telephone company. Accordingly, it would have to request that its geographic service authority be expanded in order to provide service in an area served by a rural ILEC or to implement an interconnection agreement with a rural ILEC.

As a condition of providing local exchange service, Lightship must comply with the terms of any interconnection agreements that it has reached with any ILECs and that have been approved by the Commission.

#### **IV. WAIVERS; REPORTING REQUIREMENTS**

As a condition of providing local exchange service, Lightship must comply with the terms of any applicable Commission orders or rules that may govern local interconnection and compensation for interconnection. Lightship shall also comply with any applicable Commission Rules or orders that govern universal service, public safety and welfare, service quality and consumer rights.

Although Lightship has not requested a waiver from the requirements of Chapter 210 of the Commission's Rules, which governs telephone utility accounting, or from 35-A M.R.S.A. §§ 707 and 708, which govern reorganizations and affiliated interests, the Commission has the authority to grant such waivers on its own motion. Because Lightship's rates and operations are likely to be subject to market forces, we do not see any present need to subject the Company to those requirements. However, Lightship must report its annual intrastate gross operating revenues and its annual intrastate minutes for use for the purpose of determining its regulatory assessment.<sup>1</sup> If Lightship resells service to other switched or switchless telephone service providers, it must maintain its records so that it may separately identify those sales.

In addition, Lightship shall inform the Commission of any changes to its corporate structure and ownership and of any changes in the name under which it does business, as set forth in Ordering Paragraph No. 3. If necessary, it shall also refile its rate schedules and terms and conditions to reflect its new identity.

#### **V. OTHER REQUIREMENTS**

Lightship shall comply with all applicable rules of the Commission and statutes of the State of Maine.

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<sup>1</sup>The Commission mails the annual reporting forms to carriers in January of each year. The completed forms are due by April 1 of each year.

**VI. ORDERING PARAGRAPHS**

Accordingly, we

1. Grant, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, the request of Lightship Telecom, LLC to provide local exchange telephone service to all areas within the State of Maine that are within the service territory of New England Telephone and Telegraph Company;

2. Exempt Lightship Telecom, LLC from the requirements of Chapter 210 of the Commission's Rules, except that it must report the revenue and minutes of use information that is requested by the Commission, on or before April 1 of each year; and

3. Exempt Lightship Telecom, LLC from the approval requirements of 35-A M.R.S.A. §§ 707 and 708, provided that Lightship Telecom, LLC shall notify the Commission of any reorganization, as defined in 35-A M.R.S.A. § 707(1)(A), that results in a merger, sale or transfer of a controlling interest of Lightship Telecom, LLC or of any entity that owns more than 50% of Lightship Telecom, LLC. Lightship Telecom, LLC shall also provide notice of any other changes in the name under which it does business (d/b/a), any change of the location of its business office, and change of its contact person. Lightship Telecom, LLC shall provide the Administrative Director of the Commission with notice of any of the changes described within 30 days following the change. If necessary, Lightship Telecom, LLC shall amend its rate schedules and terms and conditions to reflect any change in identity.

4. Direct that Lightship Telecom, LLC shall not provide local exchange telephone service until it files with the Commission rates, terms and conditions for the provision of such service, and those rates, terms and conditions have been allowed to go into effect by the Commission.

Dated at Augusta, Maine, this 10th day of September, 1998.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
                                                 Nugent